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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/693,770	10/20/2000	Johannes Schuren	55839USA2A.002	7772

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EXAMINER

BROWN, MICHAEL A

ART UNIT PAPER NUMBER

3764

DATE MAILED: 01/21/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/693,770

Applicant(s)

Johannes Schuren et al

Examiner

Michael Brown

Group Art Unit

3764

--The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address--

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-36 is/are pending in the application.
- Of the above claim(s) 22-36 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-13 and 16-20 is/are rejected.
- ☒ Claim(s) 14-15 and 21 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 12 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Sandvig '225.

Sandvig '225 discloses in figures 9A-9D a custom footbed comprising a substrate 54, having an upper surface with contours (col. 18, lines 15-16), a depression (the contour inside of 54 that 52 fits inside of), and a compressible wound spacer 52. The substrate has a uniform thickness (fig. 9B). The depression and the wound spacer extend across the substrate (fig. 9B). The wound spacer is attached to the upper surface of the substrate (fig. 9D). The substrate includes a moisture cured resin).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-11 13 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sandvig '225 in view of Sandvig '047.

Sandvig '225 discloses in figures 9A – 9D a custom footbed, substantially as claimed. However, Sandvig '225 does not disclose a contact layer attached to the upper surface of the substrate. Sandvig '047 teaches in figure 2 a custom footbed comprising a substrate 10 and a contact layer 14 attached to the upper surface of the substrate. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the contact layer as taught by Sandvig '047 could be incorporated into the footbed disclosed by Sandvig '225 in order to use the contact layer to prevent undesirable adhesion or contact between the substrate and the bottom of the user's foot. It is inherent that the contact layer could be made of an absorbing textile to absorb any unwanted resin from touching the bottom of the user's foot. Sandvig '047 also teaches that the substrate can include a textile material (a knit fabric, col. 5, lines 66-68).

Allowable Subject Matter

Claims 14-15 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Greenawalt discloses a custom made footwear. Brown discloses an orthotic assembly. Vasyli discloses an orthotic device. Although each of these

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references is pertinent prior art, neither could be used to reject any claims, in the first office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is 703-308-2682. The examiner can normally be reached on 5:30 am-4:00 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 703-308-2698. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

M. Brown
January 12, 2004

A handwritten signature in black ink, appearing to read "Michael A. Brown", with a long horizontal flourish extending to the right.

**MICHAEL A. BROWN
PRIMARY EXAMINER**